

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Missouri

CRITERIA FOR THE APPLICATION OF SPECIFIED REMEDIES  
FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES  
(When and how each remedy is applied, the amounts of any  
fines, and the severity of the remedies).

The following criteria shall be used by the Missouri Department of Social Services in applying the remedies specified in section 1919(h)(2)(a)(i) through (iv) of the Act:

1. The state is authorized to deny payment for any individual admitted to the nursing facility.

An action may be brought in circuit court by the Department of Social Services or by the Missouri Attorney General or any other appropriate state agency to enjoin the acceptance of new residents until the nursing facility has corrected deficiencies which affect significantly and adversely the physician and mental health, safety, welfare, nutrition or sanitation of the residents. (198.067, RSMo (Cum. Supp. 1990))

2. The state is required to establish by law a civil money penalty.

At the request of the Department of Social Services, the Attorney General may bring an action in circuit court to recover a civil penalty provided for in 198.067.2, RSMo (Cum. Supp. 1990). Any facility which has been cited with a violation that significantly and adversely affects the health, safety, nutrition, or sanitation of the residents (sections 198.003 to 198.096 RSMo or the regulations established pursuant thereto) or violates subsection (b), (c) or (d) of section 1396r of Title 42 of the United States Code or the regulations established pursuant thereto, is liable to the state for civil penalties of up to ten thousand dollars for each day the violation existed or continues to exist.

The amount of the penalty shall be determined as follows:

- (a) For each violation of a Class I standard not less than one hundred fifty dollars nor more than one thousand dollars;
- (b) For each violation of a Class II standard not less than fifty dollars nor more than five hundred dollars;
- (c) For each violation of a Class III standard, not less than fifteen dollars nor more than one hundred fifty dollars;

- (d) For each violation of a federal standard which does not also constitute a violation of a state law or regulation, not less than two hundred fifty dollars not more than five hundred dollars;
- (e) For each specific Class I violation by the same operator which has been cited within the past twenty-four months and for each specific Class II or III violation by the same operator which has been cited within the past twelve months, double the amount last imposed. (198.067, RSMo (Cum. Supp. 1990))
3. The state is required to establish provision for appointment of temporary management.

The Attorney General, either on his own initiative or upon the request of the department or of any other state governmental agency having an interest in the matter, a resident or residents or the guardian of a resident of a facility or the owner or operator of a facility may petition for appointment of a receiver for a facility when any of the following conditions exist:

(1) The operator is operating without a license; (2) The department has revoked the license of an operator or refused to grant an application for a license to the operator; (3) The department has initiated revocation procedures and has determined that the lives, health, safety, or welfare of the residents cannot be adequately assured pending a full hearing on license revocation; (4) The facility is closing or intends to close and adequate arrangement for relocation of residents have not been made at least thirty days prior to closure; (5) An emergency exists in the facility; (6) The operator is insolvent; or (7) Owner of the land or structure is insolvent and such insolvency substantially affects the operation of the facility. (198.099, RSMo (1986))

4. The state must establish authority to close facilities, to transfer residents in facilities or both.

Powers of the receiver outlined in 198.112, RSMo (1986) include the authority to transfer residents. A receiver shall, if any resident is transferred or discharged, provide for: (a) transportation of the resident and the resident's belongings and medical records to the place to which the resident is being transferred or discharged; (b) Aid in locating an alternative placement and in discharge planning; (c) If the resident is being transferred, preparation for transfer to mitigate transfer trauma. The receiver is also required to permit participation by the resident or the resident's guardian in the selection of the resident's alternative placement, if any resident is to be transferred.

If, during or at the completion of an investigation, the Department of Social Services has reasonable cause to believe that immediate removal is necessary to protect a resident from abuse or neglect, the department or the local prosecuting attorney may file a petition for temporary care and protection of the resident in circuit court. (198.070.6, RSMo (Cum. Supp. 1990))

5. The state is permitted to establish alternative sanctions other than those noted in the Act.

Alternative remedies:

The authority for the Missouri Department of Social Services to enter into a consent agreement with the operator to issue a probationary license. (198.026, RSMo (Cum. Supp. 1990))

The authority to bring an action to temporarily or permanently enjoin or restrain any violation of Sections 198.003 to 198.186 "Omnibus Nursing Home Act", or to enjoin any specific action or practice of the facility. (198.067, RSMo (Cum. Supp. 1990))

When a notice of noncompliance has been issued, the operator shall post a copy of the notice of noncompliance and a copy of the most recent inspection report in a conspicuous location in the facility, and the department shall send a copy of the notice of noncompliance to the Division of Family Services of the Department of Social Services, Department of Mental Health, and any other concerned federal, state or local governmental agencies. (198.026, RSMo (Cum. Supp. 1990))

The Department of Social Services may revoke a license in any case in which it finds that the operator has failed to comply with health and safety standards where the aggregate effect of such noncompliances presents either an imminent danger to the health, safety, or welfare of any resident or a substantial probability that death or serious physical harm would result. (198.036, RSMo (1986))

TN No. MS 90-14  
Supersedes  
TN No. NA

Approval Date MAY 30 1991  
Effective Date 04/01/90  
HCFA ID: 1080P/0019P

Substitute per letter dated 5/9/91